

The purchaser, Allen Thomas, on the 14th of May, 1847, filed his petition in the cause, stating that one William Clements was in possession of a part of the property so purchased by him, having obtained possession long after the date of the mortgage, and that upon demand, he had refused to surrender the same to the said purchaser, who prayed for the usual power to remove him, Clements, and for the delivery of the possession to the purchaser.

Upon this petition, an order to show cause was passed, and Clements has filed an answer and certain exhibits, which he deems sufficient to repel the application.

It appears from the answer and exhibits, that on the 1st of January, 1833, Caton, the mortgagor, leased to one Allen Shipley, his executors, administrators and assigns, a lot of ground containing one acre and a half, for ninety-nine years, renewable forever, for the annual rent of five dollars, clear of all deductions for taxes, &c. And it appears by an indorsement upon the lease, dated the 12th of March, 1842, that Shipley, for the consideration of \$145, assigned and transferred the same to Clements, and engaged to enter into any other instrument of writing, for the better security of Clements, and the more effectual transfer to him of the lease. The lease was acknowledged and recorded in due time, but the assignment indorsed upon it was not. Afterwards, that is, on the 31st of October, 1846, Shipley executed a formal assignment to Clements of his interest in the lease, which was duly acknowledged and recorded among the land records of the county. It further appeared that Richard Caton, the lessor, on the 31st of May, 1845, agreed that Clements should be entitled to enclose, temporarily, the lot around his house containing about nine acres, until the first of December then ensuing, for the sum of ten dollars, and in a certain event, should have a lease for the same, for the term of ninety-nine years, at \$3 00 per acre, per year, and in a certain other event, the lease was to be for only ten years. This paper was not recorded. The answer of Clements alleged that Shipley and respondent, had occupied and possessed these parcels of land long before the bill in this case